

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

**FILED**

DEC 09 2013

Clerk, U.S. District Court  
District Of Montana  
Missoula

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KELLY R. ETZEL,

Defendant.

CR 13-31-M-DLC

FINDINGS AND  
RECOMMENDATION  
CONCERNING PLEA

The Defendant, by consent, has appeared before me under Fed. R. Crim. P. 11 and has entered a plea of guilty to two counts of distributing a Schedule II controlled substance, and aiding and abetting in the same, in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2, as set forth in Counts II and XI of the Indictment filed against her. In exchange for Defendant's plea, the United States has agreed to dismiss Counts I and III-X of the Indictment.

After examining the Defendant under oath, I have made the following determinations:

1. That the Defendant is fully competent and capable of entering informed and voluntary pleas,

2. That the Defendant is aware of the nature of the charges against her and

consequences of pleading guilty to the charges,

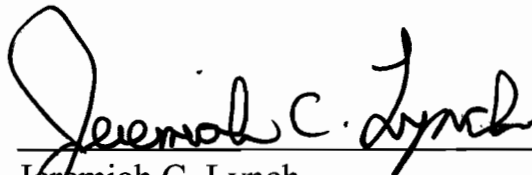
3. That the Defendant fully understands her constitutional rights, and the extent to which she is waiving those rights by pleading guilty, and

4. That the pleas of guilty are knowing and voluntary pleas, supported by an independent basis in fact sufficient to prove each of the essential elements of the offenses charged.

The Court further concludes that the Defendant had adequate time to review the Plea Agreement with counsel, that she fully understands each and every provision of the agreement and that all of the statements in the Plea Agreement are true. Therefore, I recommend that the Defendant be adjudged guilty of Counts II and XI of the Indictment, and that sentence be imposed. I further recommend that Counts I and III-X of the Indictment be dismissed.

**This report is forwarded with the recommendation that the Court defer a decision regarding acceptance until the Court has reviewed the Plea Agreement and the presentence report.**

DATED this 9<sup>th</sup> day of December, 2013.

  
Jeremiah C. Lynch  
United States Magistrate Judge